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December 5, 2002

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Memorandum of ~~Ex~~ Parte Communication

DEC - 5 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
TW-A325-Lobby  
Washington, D.C. 20554

Dear Ms. Dortch:

Re: CC Docket No. 01-338. Review of *the* Section 251 Unbundling  
Obligations of Incumbent Local Exchange Carriers

CC Docket No. 96-98. Implementation of the Local Competition  
Provisions in the Telecommunications Act of 1996

CC Docket No. 98-147. Deployment of Wireline Services Offering  
Advanced Telecommunications Capability

On December 4, 2002, Ed Whitacre (SBC Chairman and CEO), William Daley (President - SBC), Jim Smith (Senior Vice President - FCC) and Richard Wiley (Senior Partner - Wiley, Rein & Fielding) met with Commissioner Kevin Martin, Dan Gonzalez, Senior Legal Advisor to the Commissioner and Emily Willeford, Special Assistant for Legislative and Public Affairs, to discuss development of a sustainable wholesale model for local competition. SBC proposed a transition plan that it believes could serve as a national model. SBC described the effects of unprecedented quarter-over-quarter declines in ILEC retail access lines, which it believes can be attributed in large part to the rapid and continuing growth in UNE-P. SBC also presented a breakdown of residential access lines within its operating territories, divided into the categories

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of retail, wholesale, CLEC facilities bypass and total substitution. The attached materials were used as the basis of the discussions.

We are submitting the original and one copy of this Memorandum to the Secretary in accordance with Section **1.12** of the Commission's rules. Please include a copy of this submission in the record of the above-listed proceedings. Also, please stamp and return the provided copy to confirm your receipt. You may contact me at **(202) 326-8889** should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Bennett". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Attachment

cc: Commissioner Martin  
D. Gonzalez  
E. Willeford



# Development of a Sustainable Wholesale Model

December 4, 2002

# Path to a Sustainable Wholesale Model

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*"The goal of the Telecommunications Act was to establish a competitive and deregulated environment. But to get to true deregulation, we need facilities-based competition. Without it, you will always need a regulatory body to set wholesale and retail prices."*

*9/18/2002 Remarks of Kevin J. Martin  
Alliance for Public Technology and  
the High Tech Broadband Coalition Policy Breakfast*

# Path to a Sustainable Wholesale Model



- SBC is prepared to focus on answers.
- We are not here to point fingers, but rather to offer solutions.
- SBC has endeavored to develop a proposal, including a transition plan, that would meet the needs of all and could be implemented nationally.

# Path to a Sustainable Wholesale Model



- SBC wants to be in the business of providing viable and sustainable wholesale products to other telecom carriers.
  - A long history of providing wholesale services in the access market.
  - Seeks to offer analogous services for the local market.
- CLECs advocate that UNE-P be continued indefinitely, while ILECs call for its elimination following a short transition period.
- The FCC's difficult charge is to develop a legally sound long-term solution, including any necessary transition to viable and sustainable business models.



# Path to a Sustainable Wholesale Model



## SBC's transition proposal

- + Establishment of a two-year transitional wholesale offering for serving residential customers that is functionally equivalent to the UNE-P at a rate of \$26 per month.
  - CLECs could migrate new residential customers under this wholesale offering during the transition period for a non-recurring charge of \$10.00.
  - Existing UNE-P customers migrated to \$26 rate over twelve months.
- Upon the effective date of the Triennial Review Order, ILECs would no longer be required to provide UNE-P to serve business customers.
  - Resale, as well as facilities-based competition utilizing unbundled loops, would remain available.
  - Parties would remain free to negotiate business-to-business facilities leasing arrangements.

# Path to a Sustainable Wholesale Model



## Framework

- **Commission finds that competitors are not impaired on the local switching element.**
- **The transition plan would be appropriate as a national policy.**
- **Resale and UNE-L options would also remain available for CLECs to serve the mass market.**
- **Existing use restrictions for EELs would remain in-place.**



# Path to a Sustainable Wholesale Model

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## Plan Benefits

- Certainty restored to the telecom marketplace with adequate time for companies to negotiate business-to-business facilities leasing arrangements.
- CLECs provided with a reasonable transition period at an affordable rate.
  - CLECs will have ample time to further invest in their own loops, switches and transport facilities.
- A transitional monthly rate of \$26.00 would allow:
  - SBC to cover its operating costs.
  - CLECs' retail rates to recover their SG&A costs and provide a reasonable margin.
- States would have incentives to appropriately rationalize or deregulate residential local exchange rates.



# Path to a Sustainable Wholesale Model

## Estimated CLEC Retail Margins

Local & LD Offering	\$40.00	-	\$60.00
OB (Access, SLC, etc.)*	\$8.00		\$ 8.00
Total Revenue	\$48.00	-	\$68.00
Transition Plan Rate	(\$26.00)		(\$26.00)
LD Costs*	\$5.00		(\$5.00)
Est. SG&A @ 20%	(\$ 9.60)	-	(\$13.60)
Total Costs	(\$40.60)	-	\$44.60)
CLEC Margin	\$7.40	-	\$23.40
% Margin	15%	-	34%

\* Based on AT&T 9/30/2002 ex parte

# Path to a Sustainable Wholesale Model



*“I believe the government - particularly the Commission - should place a higher priority on facilities-based deployment and competition. In the past, the Commission adopted a framework that may have discouraged facilities-based competition, allowing competitors to use every piece of the incumbents’ network at super-efficient prices.”*

*9/18/2002 Remarks of Kevin J. Martin  
Alliance for Public Technology and  
the High Tech Broadband Coalition Policy Breakfast*

*\*\*\*\*\**

*“[T]here are network reliability and security advantages to having multiple facilities-based competitors.”*

*10/26/2001 Remarks of Kevin J. Martin  
National Summit on Broadband Deployment*

## Market Share Breakdown

